



October 5, 2021

Hon. Steve Barnett
Secretary of State
500 E Capitol Avenue
Pierre, SD 57501

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Dear Secretary Barnett,

The Legislative Research Council received an initiated measure (six sections) to legalize marijuana in small amounts for those twenty-one years of age or older. The initiated measure requires a fiscal note because it was determined it may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. SDCL 2-9-31 requires the fiscal note be no longer than fifty words.

The fiscal note examines the fiscal impacts associated with legalizing marijuana. The initiated measure seeks to legalize the possession, use, ingestion, transportation, processing, delivering, and distribution of one ounce or less of marijuana. In addition, the cultivation of three or fewer plants and the possession of the marijuana produced would also be legalized if the plants and marijuana grown are kept in a locked space and out of public view.

The fiscal impact of decreased incarceration due to the nullification of some marijuana-related laws is projected to be negligible at this time due to 1) the de minimis number of individuals in prison due to crimes related to an ounce or less of marijuana and 2) the unknown but likely minimal effect on marijuana laws related to the cultivation and possession of marijuana directly from plants.

While the measure does not mention an excise tax, it is expected that marijuana would have a sales tax like other goods sold in the state. We have calculated the fiscal impact of the sales tax as below.

The calculation below uses data on taxable marijuana sales from Colorado, Washington, Oregon, California, and Nevada and assumes 1) South Dakota citizens will spend dollars on marijuana at the same rate on average as citizens in these five states did in the first three years after marijuana legalization and 2) South Dakota's population will increase at a rate of 0.9% per year through 2026.

South Dakota could expect to earn up to the following from taxing marijuana starting in FY 2024:

- In FY 2024, \$3.3 million;
- In FY 2025, \$4.8 million; and
- In FY 2026, \$6.2 million.

Therefore, through FY 2026, South Dakota can expect up to a total of \$14.3 million in tax revenue from the sales tax on marijuana if this initiated measure were to pass. Estimations beyond FY 2026 would not be prudent at this time due to the limited number of states that have legalized marijuana for more than three years.

Enclosed is a copy of the initiated measure, in final form, that was submitted to this office. In accordance with SDCL 2-9-31, I hereby submit the Legislative Research Council's fiscal note with respect to this initiated measure.

Sincerely,



Reed Holwegner
Director

Enclosures

Cc: Brendan Johnson

SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

FISCAL NOTE

INITIATED MEASURE

AN INITIATED MEASURE TO LEGALIZE MARIJUANA (SIX SECTIONS).

Legalizing marijuana and taxing marijuana sales beginning July 1, 2023, through the state sales tax, could generate estimated additional revenue of \$3.3 million in FY 2024, \$4.8 million in FY 2025, and \$6.2 million in FY 2026, totaling \$14.3 million over three years.

Approved: Reed Holwegner Date: October 5, 2021

Director, Legislative Research Council